

Notice of Allowability

Application No.

10/658,251

Examiner

Jeffrey Sharp

Applicant(s)

LAT ET AL.

Art Unit

3677

RLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Supplemental Amendment filed 10/11/2004 and Examiner's Amendment dated 11/1/2004.
2. ☒ The allowed claim(s) is/are 2-15.
3. ☒ The drawings filed on 09 September 2003 and 24 September 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 10/7/04 & 10/26/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard Beem on Tuesday, 26 October 2004. A fax of the examiner's amendment was sent following the telephone interview, and was agreed and confirmed upon in a formal telephone message.

The application has been amended as follows:

Claim 2 from supplemental amendment dated 11 October 2004 has been amended to read:

- " 2. (currently amended) A reinforcement system for fastening to a substrate comprising:
- wire lath and a plurality of fasteners;
- wherein each of said fasteners comprises:
- a bridge portion having a length;
- a first prong having a length extending in a driving direction from said bridge portion to a distal end for driving into said substrate;

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and a second prong spaced from said first prong [[and extending generally parallel thereto in the driving direction from said bridge portion]];

wherein said second prong has a length of between about 25% and about 45% of the length of said first prong and wherein said second prong [[bends]] is bent so as to be generally perpendicular to the first prong and generally parallel to the bridge portion to hold said wire lath between said second prong and said bridge portion [[and to space said wire lath]] at a location wherein the wire lath and second prong are spaced a predetermined distance from said substrate. "

Claim 3 from supplemental amendment dated 11 October 2004 has been amended to read:

" 3. (currently amended) A reinforcement system for fastening to a substrate comprising:
wire lath and a plurality of fasteners;
wherein each of said fasteners comprises:
a bridge portion having a length;
a first prong having a length extending in a driving direction from said bridge portion to a distal end for driving into said substrate;
and a second prong spaced from said first prong [[and extending generally parallel thereto in the driving direction from said bridge portion]];
wherein said second prong is substantially shorter than said first prong;
and wherein said second prong has a length of between about 75% and about 99% of the length of said bridge portion and [[bends]] is bent so as to be generally

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perpendicular to the first prong and generally parallel to the bridge portion to hold said wire lath between said second prong and said bridge portion [[and to space said wire lath]] at a location wherein the wire lath and second prong are spaced a predetermined distance from said substrate. "

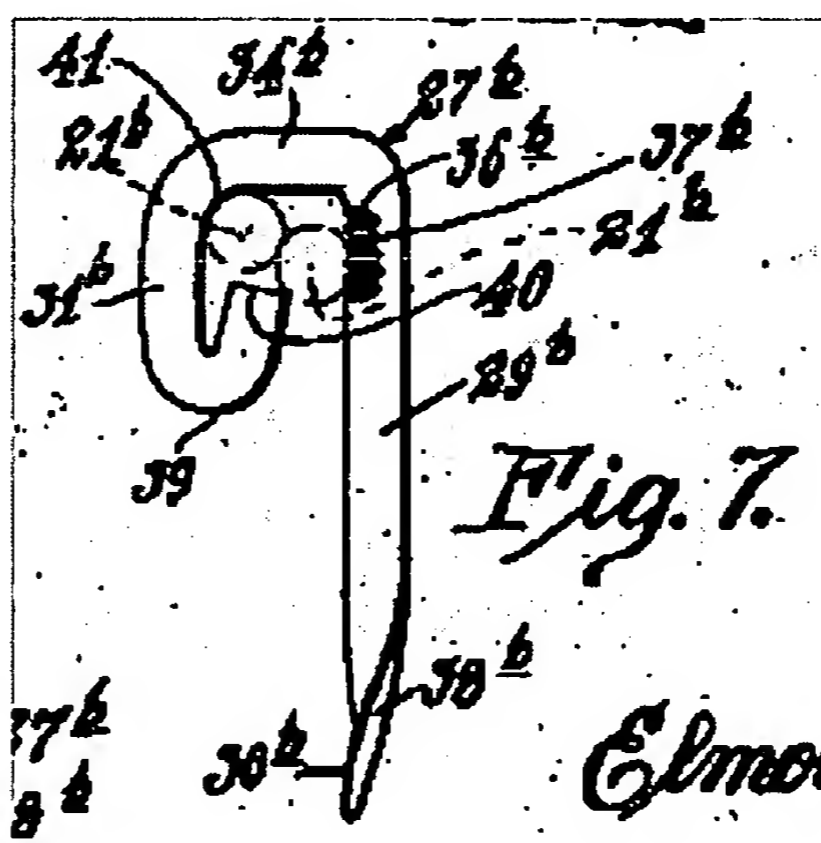
Claim 14 from supplemental amendment dated 11 October 2004 has been amended to read:

" 14. (currently amended) A reinforcement system for fastening to a substrate comprising:
wire lath and a plurality of fasteners;
wherein each of said fasteners comprises:
a bridge portion having a length;
a first prong having a length extending in a driving direction from said bridge portion to a distal end for driving into said substrate;
and a second prong having a length spaced from said first prong [[and extending generally parallel thereto in the driving direction from said bridge portion]];
wherein the length of said second prong is between about 25% and about 45% of the length of said first prong and wherein said second prong is at least about 75% of the length of said bridge portion and said second prong [[bends]] is bent so as to be generally perpendicular to the first prong and generally parallel to the bridge portion to hold said wire lath between said second prong and said bridge portion [[and to space said wire lath]] at a location wherein the wire lath and second prong are spaced a predetermined distance from said substrate. "

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The following is an examiner's statement of reasons for allowance:

US-1,816,387 to Menninger teaches away from a shorter second prong completely spaced a predetermined distance from the substrate by using the second prong as a stopping portion against the substrate. Menninger also only teaches a portion or end shoulder (40) of the second prong (31b) to be bent, and the entire second prong (31b) is not 'bent so as to be generally perpendicular to the first prong or generally parallel to the bridge portion' as amended by the examiner. Refer to Pg. 1 lines 82-92, and Pg.4 lines 52-72 of Menninger. Applicant's invention differs from Menninger in that the bridge and second prong being generally parallel allows the wire lath to have at least some lateral movement, whereas Menninger teaches a 'pinching' of the wire by the 'upwardly extended' shoulder (Claim 3 line 5) rather than laterally extending. Further, Applicant intends the entire (i.e., substantially all of) second prong to be bent, thereby creating a roughly three-sided fastener patentably distinct from Menninger's four-sided fastener in communication with wire lath after bending.



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US-1,816,387 to Menninger

US-1,850,868 to Drake does not teach a second prong to be generally perpendicular to the first prong or generally parallel to the bridge portion.

US-1,703,557 to Sullivan does not teach a bent shorter second prong.

US-1,877,274 to Crowhurst teaches a flange (23) instead of a bent second prong.

US-1,703,560 to Voight teaches a second prong not generally parallel to the first prong.

US-1,590,003 to Voight does not teach a bent second prong.

US-1,801,400 Venzie does not teach a bent second prong.

US-2,034,726 to Menninger does not show second prong (392) to be bent and spaced a predetermined distance from the substrate.

US-1,607,954 to Johnson does not teach a second prong spaced a predetermined distance from the substrate.

US-256,488 to Leonard does not teach a second prong to be generally perpendicular to the first prong or generally parallel to the bridge portion.

US-401,343 to Gildemeyer does not teach a bent shorter second prong spaced from a substrate.

US-5,074,453 to Tachihara et al. does not teach a bent second prong in communication with wire lath.

US-2,589,491 to Goodstein does not teach a bent second prong in communication with wire lath.

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US-717,554 to Doan does not teach a bent second prong in communication with wire lath.

US-1,957,476 to Menninger does not show a bent second prong to be generally perpendicular to the first prong or generally parallel to the bridge portion.

US-3,339,448 to McKee does not show a second prong substantially shorter than a first prong.

US-1,087,264 to Sheppard does not teach a second prong to be generally perpendicular to the first prong or generally parallel to the bridge portion.

US-1,610,082 to Francis does not teach a second prong spaced a predetermined distance from the substrate.

US-324,126 to Le Gay does not teach a bent second prong in communication with wire lath.

US-3,339,265 to Powers et al do not teach a substantially shorter second prong.

US-1,822,781 to McSkimming does not teach a second prong to be generally perpendicular to the first prong or generally parallel to the bridge portion in order to hold wire lath.

US-2,314,481 to Crooks does not communicate with wire lath.

US-1,546,522 to Voight does not show a bent shorter second prong spaced from a substrate.

US-2,521,019 to Percoco does not teach the bending of a second shorter prong to hold wire lath.

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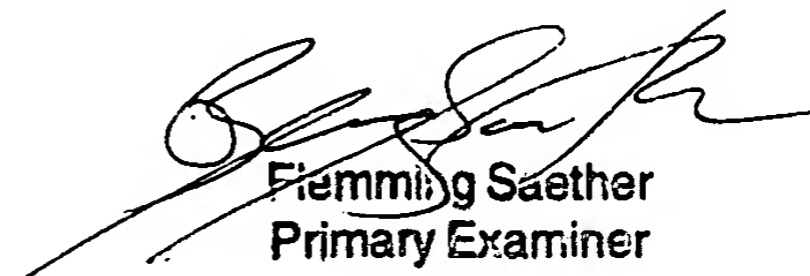
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (703) 305-2693. The examiner can normally be reached on 7:30 am - 5:00 pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS



Flemming Saether
Primary Examiner